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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RM 8577

THE CITY OF
**INDIAN
WELLS**
CALIFORNIA

March 8, 1995

DOCKET FILE COPY ORIGINAL

Chairman Reed Hundt
The Federal Communications Commission, FCC
1919 "M" Street, N.W.
Washington, DC 20036

**RE: SITING AND RELOCATING CELLULAR AND OTHER WIRELESS
COMMUNICATIONS, TOWERS AND TRANSMITTERS**

Dear Honorable Chairman Hundt:

44-950
Eldorado Drive
Indian Wells
CA 92210-7497

Tel: 619/346-2489
Fax: 619/346-0407

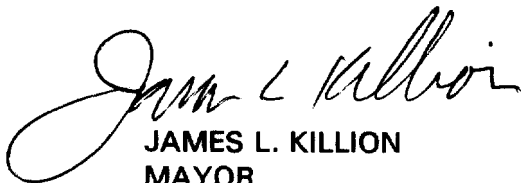
As with most jurisdictions, there can be considerable citizen input and concern with regard to aesthetics and the safety of cellular communication. Locating and constructing new wireless communication facilities within the City of Indian Wells requires a Conditional Use Permit.

Local control should not be transferred to Washington DC. There would be no ability for local agencies to advise the community and ascertain any environmental or aesthetic ramifications to the installation of wireless communication facilities. As the Mayor for the City, I would personally like to formally protest against any loss of local government control and enforcement with regard to land use controls and local Zoning regulations.

Moving the decision to Washington DC does not empower the local governing bodies in their rights of providing an equal opportunity for the public review process. The City of Indian Wells provides a mechanism by which all cellular communication facilities can be considered for placement within our community with appropriate local conditions. Land use decisions should remain in the purview of local agencies and not by decision makers' thousands of miles away.

If there are any further questions, please feel free to contact me at (619) 776-0222.

Sincerely,



JAMES L. KILLION
MAYOR

JLK/bjb

cc: City Council
City Attorney
City Manager
Administrative Services Director
Planning Director

043

PUBLIC UTILITIES COMMISSION

550 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

February 24, 1995



MAR 2 3 1995

IMPORTANT NOTICE

**The Ultimate Jurisdiction for Planning/Land Use Decisions on
Siting and Relocating Cellular and Other Wireless Communications
Towers and Transmitters Could be Transferred to Washington -- to the FCC**

We are notifying you about a proposal to *"preempt state and local governments from enforcing zoning and other similar regulations"* with respect to locating and constructing new towers for wireless communications facilities.

Currently, the California Public Utilities Commission (CPUC) issues authority for cellular utilities to construct, install and modify facilities, but only after ensuring that the cellular utilities have first obtained the necessary local permits or approvals -- a way to assure that local community issues have been fully weighed. We try hard to get cellular utilities to abide by local community requirements. Recently, the CPUC settled an investigation of approximately 160 sites of Los Angeles Cellular Telephone Company (LACTC) for \$4.2 million. Additionally, LACTC settled an investigation into three sites for approximately \$725,000 for misrepresentation to the CPUC, premature construction, and permitting deficiencies. GTE Mobilenet was also recently fined \$343,000 for cellular siting violations.

However, an organization representing cellular utilities is petitioning the Federal Communications Commission (FCC) to preempt the CPUC and local government functions like your department's. Moving jurisdiction to Washington is not empowering the states, and it puts local community issues before decision makers located thousands of miles away. The assumption is that communities must routinely deny permits, but I know of no such instances. Local community land use considerations accommodate the placement of towers and transmitters, and wireless service has been extended to consumers. It is important for local communities to know about this if they are to have a voice in what happens. Enclosed are some details.

You should, if you've views to express, do several things, including:

1. Contact members of the California Congressional delegation;
2. Write to the FCC Commissioners [Commissioner Rachelle Chong is from the Stockton Area]; and
3. File a formal response or pleading with the FCC.

As you may know, the CPUC is holding informal workshops (next workshop in San Francisco on March 6, 1995) on whether the CPUC should basically "give back" its oversight so local communities and courts would have ultimate jurisdiction, and just as that dialog was starting (albeit without much participation by counties and cities), the cellular utilities initiated the proposal to sidestep local requirements and seek FCC preemption-- they seek to trade-off local community and state review for a scheme to give themselves maximum flexibility and move any challenges to a forum thousands of miles away.

For more details, call Mr. DeUlloa (415-703-1998) or Ms. Youngsmith (703-2088).

Sincerely,

Ira R. Alderson, Jr.

Attorney for the Commission's
Safety and Enforcement Division
Attachments:

SUMMARY REPRINT FROM

Cellular Telecommunications Industry Association's Petition for Rule Making

In the Matter of)
)
Amendment of the Commission's) RM -8577
Rules To Preempt State and Local)
Commercial Mobile Services)
Providers)

To: The Commission

**Cellular Telecommunications Industry Association's
Petition for Rule Making**

The Cellular Telecommunications Industry Association ("CTIA"), pursuant to § 1.401 of the Commission's rules, hereby submits a Petition for Rule Making ("petition") requesting the Commission to issue a Notice of Proposed Rule Making proposing to exercise its authority under § 2(b) and § 332 of the Communications Act of 1934, as amended, ("Act"), to ***preempt state and local governments from enforcing zoning and other similar regulations*** which have the purpose or effect of barring or impeding commercial mobile radio service ("CMRS") providers from locating and constructing new towers.

To fully realize the increased opportunities for new output and increased consumer choice emanating from the historic auctioning of PCS spectrum, the Commission, consistent with congressional mandate and its own policies, must prohibit states from thwarting such developments. Preemption of CMRS tower site regulations is required to ensure the availability of an ubiquitous, competitive, efficient, federally-regulated mobile services infrastructure consistent with the public interest. In the absence of preemption, the Commission guarantees additional delay and added costs in the rollout of PCS and other mobile services as 38,000 different local jurisdictions limit, condition and otherwise interfere with the build out of CMRS facilities. (Cellular Telecommunications Industry Association's Petition for Rule Making, pp 1-2.) (emphasis added)

YOU MAY WRITE the FCC Commissioners at:

Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20036
(202) 418-0200

The five Commissioners are:

Chairman Reed Hundt, Rachelle Chong, James Cuello, Susan Ness and Andrew Barrett

For information on how to file a formal reply contact the office of:

William Canton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20036
(202) 418-0300



PUBLIC NOTICE

Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

News media information 202/632-6050. Recorded listing of releases and texts 202/632-0002.

51679

REPORT NO. 2052

January 18, 1995

OFFICE OF PUBLIC AFFAIRS
PUBLIC INFORMATION AND REFERENCE SERVICES
PETITIONS FOR RULEMAKING FILED

(Interested persons may file statements opposing or supporting the Petitions for Rulemaking listed herein within 30 days. See Section 1.4 and 1.405 of the Commission's rules for further information).

RM No.	Rules Sec.	Petitioner	Date Rec'd	Nature of Petition
8577	333 and 2(b)	Cellular Telecommunica- tions Industry Associations Micahel F. Altachul, Vice President, General Counsel Randall S. Coleman, Vice President for Regulatory Policy and Law 1250 Connecticut Avenue N.W. Suite 200 Washington, D. C. 20036)	12-22-94	Request Amendment of Commission's Rules to Preempt State and Local Regulation of Tower Siting for Commercial Mobile Services and Providers.